**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE R.BASANT**

**WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929**

**Crl.MC.No. 3560 of 2007()**

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**CC.724/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, THIRUVALLA**

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**PETITIONER: ACCUSED 4,6,7,8 & 9:**

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1. **MANOJ, S/O.KARUTHAKUNJU, RESIDING AT PUTHENPARAMBIL, THEKKUMBHAGOM MURI, NIRANAM VILLAGE.**

2. **SHIBU, S/O.DANIEL, RESIDING AT KANNERIL VEETTIL, THEKKUM MURI, NIRANAM VILLAGE.**

3. **RAVI P.K., S/O.KALI, RESIDING AT PERUMPUNNAYIL VEETTIL, THEKKUM MURI, NIRANAM VILLAGE.**

4. **SANJU, S/O.RAMANAN, RESIDING AT PERUMPUNNAYIL VEETTIL, THEKKUM MURI, NIRANAM VILLAGE.**

5. **SASI, S/O.THEVAN, KOTHAVELIL VEETTIL, THEKKUM MURI, NIRANAM VILLAGE.**

**BY ADV. SRI.P.HARIDAS**

**RESPONDENTS: STATE AND COMPLAINANT:**

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1. **STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

2. **THE SUB INSPECTOR OF POLICE,PULIKKEEZH.**

**BY PUBLIC PROSECUTOR SRI.GIKKU JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**R. BASANT, J.**

**Crl.M.C. No. 3560 OF 2007**

**Dated this the 28th day of November, 2007**

**O R D E R**

The petitioners face indictment in a prosecution for offences punishable, inter alia, under sections 353 and 506(i) IPC. The petitioners were granted bail. They, it is submitted, were appearing regularly but on 10.9.07 all the accused were absent and their application to condone their absence was rejected. Non-bailable warrant has been issued. Such warrants issued by the learned Magistrate are chasing the petitioners. According to the petitioners, an application to advance hearing was filed on 14.11.07. That application filed by the petitioners was rejected though identical application of the co-accused was entertained.

2. According to the petitioners, they are absolutely innocent. Their failure to appear on 10.9.07 was not willful or deliberate. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously.

They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George vs. Deputy Superintendent of Police*** *[2003 (1) KLT 339].*

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of the case, there shall be a direction that the warrants of arrest issued against the petitioners shall not be executed till 10.12.07. On or before that date, the petitioners shall appear before the learned Magistrate and seek regular bail.

**(R.BASANT, JUDGE)**

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